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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,059	07/31/2003	Don Rutledge Day	AUS920030562US1	3506
28722	7590	02/05/2007	EXAMINER	
BRACEWELL & PATTERSON, L.L.P. P.O. BOX 969 AUSTIN, TX 78767-0969			WHIPPLE, BRIAN P	
			ART UNIT	PAPER NUMBER
				2152
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/05/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/631,059	DAY ET AL.	
	Examiner Brian P. Whipple	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 31 July 2003.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>07/31/2003 and 04/12/2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
|  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

1. Claims 1-18 are pending in this application and presented for examination.

### ***Specification***

2. The information on related applications must be updated (see [0001] of the instant specification).

### ***Claim Objections***

3. Claims 2-4, 8-10, and 14-16 are objected to for lack of antecedent basis:
  - a. "the message recipient," claim 2, ln. 2; claim 3, ln. 2; claim 4, ln. 1-2; claim 8, ln. 2; claim 9, ln. 2; claim 10, ln. 1-2; claim 14, ln. 2; claim 15, ln. 2; claim 16, ln. 1-2.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 13-18 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The article of manufacture may be interpreted as any medium that participates in providing instructions to a processor or other components of a computer system for execution (see [0025], ln. 5-8 of the instant specification). This includes non-statutory mediums such as paper and transmission

media including electromagnetic, acoustic, or light waves (see [0025], ln. 19-21 of the instant specification). The machine-readable medium as described may be interpreted as failing to fall into one of the four statutory classes of invention: process, machine, manufacture, and composition of matter.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-2, 6-8, 12-14, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wong et al. (Wong), U.S. Publication No. 2001/0042126 A1.

8. As to claim 1, Wong discloses a method in a data processing system for managing a messaging session, said method comprising the steps of:

determining a participant has disengaged activity in the messaging session ([0010], ln. 14-19; [0040], ln. 4-8);  
determining a current activity of the participant ([0040], ln. 8-12); and  
transmitting a status indication to another participant in the messaging session that indicates the current activity of the participant ([0006], ln. 3-14; [0007]).

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9. As to claim 7, the claim is rejected for the same reasons as claim 1 above.

Additionally, Wong discloses a system ([0023]).

10. As to claim 13, the claim is rejected for the same reasons as claim 1 above.

Additionally, Wong discloses a computer-readable medium ([0024], ln. 1-4).

11. As to claims 2, 8, and 14, Wong discloses the status indication is a textual message to the message recipient (Fig. 3; [0006], ln. 3-14; presence information is disclosed as text such as "logged off" or "logged in").

12. As to claims 6, 12, and 18, Wong discloses the step of determining a current activity of the participant comprises determining a current activity of the participant with a software system component of the data processing system ([0008], ln. 2-4).

#### ***Claim Rejections - 35 USC § 103***

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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14. Claims 3, 9, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong as applied to claims 1, 7, and 13 above, in view of Glenn et al. (Glenn), U.S. Publication No. 2002/0021307 A1.

15. As to claims 3, 9, and 15, Wong discloses the invention substantially, as claimed, as addressed above in claims 1, 7, and 13, including transmitting status in textual format, but Wong is silent on indicating status in graphic format.

However, Glenn does disclose the status indication is a graphic presented to the message recipient (Abstract, ln. 7-15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Wong by displaying status indication as a graphic as taught by Glenn in order to eliminate the need for the user to read the status indication, in order to tailor the indication to a user's preference for graphic display, and in order to provide a uniform means of presenting status indication outside of individual languages.

16. Claims 4, 10, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong as applied to claims 1, 7, and 13 above, in view of Haimberg, U.S. Publication No. 2003/0210265 A1.

17. As to claims 4, 10, and 16, Wong discloses the invention substantially, as claimed, as addressed above in claims 1, 7, and 13, but Wong is silent on the capability of allowing a recipient to specify how status indication is presented.

However, Haimberg does disclose the message recipient specifies how the status indication is presented to the message recipient ([0041], ln. 1-13; the chat participant activates or deactivates the dynamic display of recently received chat messages, wherein the display of a recently received chat message in a chat session is a status indication).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Wong by allowing a message recipient to specify how status indication is displayed to the message recipient as taught by Haimberg in order to tailor status indication to user preferences (Haimberg, [0041], ln. 12-13).

18. Claims 5, 11, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong as applied to claims 1, 7, and 13 above, in view of Aravamudan et al. (Aravamudan), U.S. Patent No. 6,301,609 B1.

19. As to claims 5, 11, and 17, Wong discloses the invention substantially, as claimed, as addressed above in claims 1, 7, and 13, including detecting if a user has recently used a computer system ([0040], ln. 4-8), but Wong is silent on determining a current activity of the participant with a hardware system component of the data processing system.

However, Aravamudan does disclose the step of determining a current activity of the participant comprises determining a current activity of the participant with a hardware system component of the data processing system (Col. 7, ln. 52-59).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Wong by determining the current activity of a participant with a hardware system component in a data processing system as taught by Aravamudan in order to convey the activity status of the participant to an Instant Message server (Aravamudan, Col. 7, ln. 55-59).

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Auerbach et al. (Auerbach), U.S. Patent No. 6,549,937 B1 discloses presence data that allows a user to monitor another subscriber's activity or presence on the Internet. Additionally, Auerbach discloses instant messaging supporting a feature of changing a user's state from "online" to "busy."

Newton et al., U.S. Publication No. 2003/0131061 A1 discloses using IM service presence notification messages that indicate if a user has logged on or off.

Appelman et al. (Appelman), U.S. Patent No. 6,912,564 B1 discloses an IM server capable of determining the status or online presence of subscribers. Additionally, Appelman discloses that the online presence can be detected from a persistent connection to an IM server and/or activity on a specific control port.

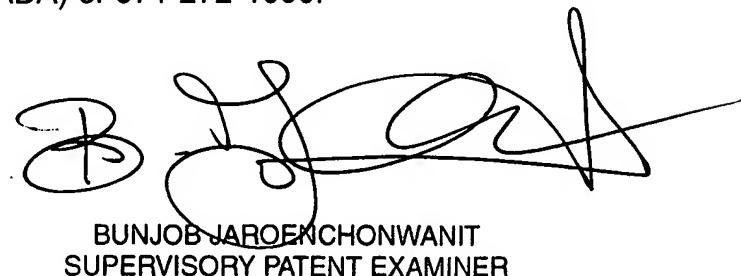
21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Whipple whose telephone number is (571)270-1244. The examiner can normally be reached on Mon-Thu (7:30 to 5), Fri (8:30 to 5 or day off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on (571)272-3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

BPN

Brian P. Whipple  
1/31/07



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SUPERVISORY PATENT EXAMINER